

**OFFICER'S RIGHTS AND OBLIGATIONS DURING
INTERNAL AFFAIRS INVESTIGATIONS**

The Public Safety Officers' Procedural Bill of Rights Act and Government Code Sections 3300, et seq., affords officers certain rights during Internal Affairs investigations. The following are some of the significant enumerated rights and obligations:

1. The officer must answer all questions directly related to the investigation truthfully. Failure to do so may result in punitive action.
2. The officer must be informed of the nature of the investigation prior to any investigation.
3. The officer must be informed of the rank and name of the officer in charge and of the interrogating officers and other persons to be present during the investigation.
4. The officer may be represented by one person of his/her choice who may be present during the entire interrogation; however, the representative may not be a person who is party to the same investigation.
5. The officer may record the entire interrogation. A subject officer must be provided access to any tape recording made of the interrogation if further proceedings are contemplated.
6. Internal Affairs Investigators may search the officer's locker in his/her presence; or with his/her consent; or with a search warrant; or where the officer has been notified in advance that a search will be conducted.

NOTE:

Judicial interpretation of the Public Safety Officers' Procedural Bill of Rights Act mandates that a Miranda and Administrative admonishment be given during an administrative investigation whenever the allegations may or could result in criminal proceedings. Although you have a Constitutional right to remain silent, your refusal to respond to questions during the course of this administrative investigation after being given the Miranda and Administrative admonishments could result in discipline.

ADMONISHMENT:

1. You have the right to remain silent.
2. Anything you say may be used against you in court.
3. You have the right to talk to an attorney before you answer questions and the right to have that attorney present with you during questioning.
4. If you cannot afford an attorney and want an attorney to represent you, an attorney will be appointed before any questioning to represent you free of charge.

Miranda Waived _____

Miranda Not Waived WLF

Please initial if applicable

ADMINISTRATIVE ADMONISHMENT:

1. Your silence could be deemed insubordinate, leading to administrative discipline.
2. Any statement made under the compulsion of the threat of such discipline may not be used against you in any subsequent criminal proceeding.

I hereby declare that I understand my rights as enumerated in the Public Safety Officers' Procedural Bill of Rights Act and the applicable admonishment relative to this investigation.

WLF 1462
Employee Signature

01/14/15
Date

[Signature]
Witness Signature

1/14/15
Date

Officer Wallace Jensen
Admonishment
Jan 14, 2015

INTRODUCTION (Turn on the Recorder):

Good morning, my name is J.P. Badel. I am an investigator with the law firm of Renne Sloan Holtzman Sakai. Also present is Lt. Brian Dickerson with the Richmond Police Department.

The date is **January 14, 2015** and the time is 11:25.

This investigation is under the direction and command of **Lt. Brian Dickerson** from the **Richmond Police Department**.

I am here with **Officer Wallace Jensen**, along with his representative, **Terry Leoni**, at the **Richmond Police Department**.

PURPOSE – **Officer Jensen**, the **City of Richmond** has hired our firm to conduct an administrative investigation into the use of force you exercised on September 14, 2014 at 3322 Cutting Blvd, Richmond, California. The City has received 6 formal personnel complaints that allege you used excessive force while attempting to place Richard Perez under arrest.

The City takes investigations of this nature seriously and has an obligation to conduct a fair and impartial investigation to determine the facts. I have been retained as an outside investigator to conduct a neutral fact-finding investigation.

RECORDING – This interview is being tape recorded to ensure we get an accurate transcript of your interview.

Do you understand that the interview is being tape recorded?

MIRANDA AND LYBARGER FORM – Refer to RPD Officer's Rights and Obligations during Internal Affairs Investigations form. Advised by Lt. Brian Dickerson

TRUTHFULNESS – You have been directed by the **City of Richmond** to participate in this interview and to answer all questions asked of you completely, and that all your answers are to be truthful. Knowingly making false or misleading statements during this interview will be considered a separate offense that could result in discipline up to and including termination.

Do you understand your obligation in this regard?

CONFIDENTIALITY – To protect the integrity and effectiveness of the investigation, it is essential that you maintain confidentiality, other than with your representative, regarding the fact that this investigation is being conducted. This includes the fact that:

- I am conducting it,
- That you are being questioned,
- The questions I ask, and
- The answers you give me.

Do you understand this request?

Wallace Jensen
Interview Questions

- Admonishment
- Please state your name and spell your last name for the record
- Officer Jensen, I am aware that you have been interviewed by Inspector Soler regarding this incident and I am aware of the Richmond Police Department's policy regarding administrative investigations pertaining to officer involved shootings. I have reviewed the recording and report of your interview with Inspector Soler and I witnessed your testimony during the Coroner's Inquest. My questions today primarily pertain to material not discussed in either of those venues. It is not my intention to question you regarding topics you have already addressed however I may be asking you to clarify some of your previous statements.
- Prior to this interview have you reviewed any reports, audio recordings or video regarding this matter?

Assignments

- I understand you are currently assigned to patrol as a canine officer and that you are on the CNT team. Any other current or past collateral duties?
- Any previous assignments other than patrol?

Training

K9

- You completed 200 hours of Canine Patrol Course Training at Golden Gate K9 in December 2012. What other canine training have you received?
 - Weekly training?
 - How long

CNT

- I understand you are a member of CNT.
 - How long?
 - What type of training?
 - When?
 - How long?
 - By whom
 - How often does the team train?

- What is your role on CNT? What are your duties?

DT

- How often do you receive defensive tactics training?
 - When was the last time?
 - By whom
 - Is this when you received training regarding reape take downs?

Firearms

- How often do you qualify/practice with your firearm?
 - When was the most recent qualification prior to this incident?
 - Did you successfully pass?
 - Was your qualification with the Wilson 45 used on the night of Sept 14?
 - What type of firearm? Is that department issued? Is it an authorized firearm by the dept?
 - Caliber?
 - What type of ammunition?
 - Department supplied?
 - You carry a Safariland tactical holster. Is that a department issued holster?
 - You told Inspector Soler that you were trained in Close Quarters Combat Shooting. Do you recall when? Where? By whom?
 - You mentioned in the coroners inquest that the retention hood stretched... was it damaged? Did you get a new holster?

Use of Force

- What training have you received in the Use of Deadly Force?
- Department training?
- When
- By Who

Scene

- Where you injured in any manner in this incident?
- Did your equipment or uniform receive any damage?
- I understand you carry a Taser on your belt that you could not access.
 - Where on your belt do you carry your Taser?
 - Are you able to retrieve that with your off hand?
- I understand you carry a Streamlight in your left sap pocket and Perez had control of your left wrist.
 - Why didn't you retrieve it with your opposite hand?

Policy

- On the night of the shooting, can you tell me what equipment you were carrying on your Sam Browne?
 - Baton? If no, Why not?
 - Chemical Agent? If no, Why not?
 - Is this consistent with department policy?
 - Does RPD policy require or give you the option of carrying
 - Baton
 - Chemical Agent
- I understand you had your canine with you on duty on Sept 14
 - Why did you leave your canine in your vehicle when you went out on the loitering check at Uncle Sam's?
 - Why did you not call your canine to assist you when Perez was resisting your arrest?
 - Is this consistent with your training?
 - Do you have a canine window activation button on your belt?
- You used defensive tactics prior to the shooting. You described the rear reap and front reap take downs.
 - Were the defensive tactics you used consistent with your training?
- Why did you resort to the use of deadly force and not less lethal force
 - Taser
 - Baton
 - Chemical Agent
 - K9
 - Flashlight
- Officer Jensen, do you have any questions or would you like to add anything?
- Ms. Leoni, do you have any questions?

Introduction (Turn on the Recorder):

Good afternoon, my name is J.P. Badel. I am an investigator with the law firm of Renne Sloan Holtzman Sakai. Also present is Lynn Malaspino-Badel, an investigator with Renne Sloan Holtzman Sakai. The date is **January 5, 2015** and the time is 3:40. I am here with [REDACTED] at **Richmond Police Department**.

Recording – This interview is being tape recorded to ensure we get an accurate transcript of your interview. Do you understand that the interview is being tape recorded?

Purpose – [REDACTED], the City of Richmond has hired our firm to conduct an investigation regarding the use of force by Officer Wallace Jensen on September 14, 2014. The City takes investigations seriously and has an obligation to conduct a fair and impartial investigation into the allegation to determine the facts. I have been retained as an outside investigator to conduct a neutral fact-finding investigation.

Confidentiality – To protect the integrity and effectiveness of the investigation, it is important that you maintain confidentiality regarding the fact that this investigation is being conducted. This includes the fact that I am conducting it, that you are being questioned, the questions I ask, and the answers you give me. Do you understand your obligation in this regard?

Introduction (Turn on the Recorder):

Good afternoon, my name is J.P. Badel. I am an investigator with the law firm of Renne Sloan Holtzman Sakai. Also present is Lynn Malaspino-Badel, an investigator with Renne Sloan Holtzman Sakai. The date is **January 5, 2015** and the time is 2:15. I am here with [REDACTED] at **Richmond Police Department**.

Recording – This interview is being tape recorded to ensure we get an accurate transcript of your interview. Do you understand that the interview is being tape recorded?

Purpose – [REDACTED], the City of Richmond has hired our firm to conduct an investigation regarding the use of force by Officer Wallace Jensen on September 14, 2014. The City takes investigations seriously and has an obligation to conduct a fair and impartial investigation into the allegation to determine the facts. I have been retained as an outside investigator to conduct a neutral fact-finding investigation.

Confidentiality – To protect the integrity and effectiveness of the investigation, it is important that you maintain confidentiality regarding the fact that this investigation is being conducted. This includes the fact that I am conducting it, that you are being questioned, the questions I ask, and the answers you give me. Do you understand your obligation in this regard?

Witness Questions

Name

Address

DOB

Phone

Work

Where you at Uncle Sams Liquor Store on 9/14/14

What were you doing there

Who were you with

Did you see an incident involving a police officer

What did you see

Where were you standing

How far away were you

Was your view obstructed in any way

Describe the actions by Perez

Did he hit the officer

Did he kick the officer

Was he fighting with the officer

Did he resist arrest

Did he try to grab the officers gun

Did he tell the Officer anything

Did you see Perez before the fight

Did you see Perez walk away from the officer

Did you see Perez charge the officer

Describe the actions by Officer Jensen

Did he hit Perez

Did he kick Perez

Did he use a baton

Did he use OC

Did he use a TASER

Did he use a canine

Did you see the Officer pull Perez to the ground

Did he shoot Perez

How many times

How far apart from each other

Was he trying to arrest Perez

Did he tell Perez anything

Did you see the officer back up away from Perez before the shooting

Did you see the officer trying to use his radio

What did Jensen do after the shooting

Do you know Perez

Did you see Perez on this night, before the incident occurred

What was his demeanor

Was he intoxicated

Was he under the influence of drugs

Introduction (Turn on the Recorder):

Good afternoon, my name is J.P. Badel. I am an investigator with the law firm of Renne Sloan Holtzman Sakai. The date is **January 14, 2015** and the time is 2:25. I am here with **Lt. Tirona** at **Richmond Police Department**.

Recording – This interview is being tape recorded to ensure we get an accurate transcript of your interview. Do you understand that the interview is being tape recorded?

Purpose – **Lt. Tirona**, the City of Richmond has hired our firm to conduct an investigation regarding the use of force by Officer Wallace Jensen on September 14, 2014. The City takes investigations seriously and has an obligation to conduct a fair and impartial investigation into the allegation to determine the facts. I have been retained as an outside investigator to conduct a neutral fact-finding investigation.

Confidentiality – To protect the integrity and effectiveness of the investigation, it is important that you maintain confidentiality regarding the fact that this investigation is being conducted. This includes the fact that I am conducting it, that you are being questioned, the questions I ask, and the answers you give me. Do you understand this request?

Questions for Lt Louie Tirona
011415

- Name
- Position
- Collateral duties
- How often do officers qualify?
- Do you have a record of Officer Jensen's qualification prior to his officer involved shooting on Sept 14, 2014?
- What is the firearm used? Serial number?
- What was his score
- Did he pass
- Officer Jensen carried a Wilson Combat Model CQB 1911. Is this firearm within RPD policy?
- Is it issued by the department?
- Officer Jensen's firearm was loaded with Winchester 45 FMJ hollow point ammunition. Is this ammunition within department policy?
- Is it issued by the department?

Witness Questions



Name

Address

DOB

Phone

Work

Where you at Uncle Sams Liquor Store on 9/14/14

What were you doing there

Who were you with

What did you see

Where were you standing

How far away were you

Was your view obstructed in any way

Describe the actions by Perez

Did he hit the officer

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Did you see Perez before the fight

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Describe the actions by Officer Jensen

Did he hit Perez

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Did he use a TASER

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Did you see the Officer pull Jensen to the ground

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Was he trying to arrest Perez

Did he tell Perez anything

Did you see the officer back up away from Perez before the shooting

Did you see the officer trying to use his radio

What did Jensen do after the shooting

Do you know Perez

Did you see Perez on this night, before the incident occurred

What was his demeanor

Was he intoxicated

Was he under the influence of drugs

Did you video the incident

What did you do with the recording

When you were interviewed by Det. Esparza you told him Perez was "resisting too much".
What did you mean

You heard Perez say "Your not going to arrest me" before the incident started?

You told the detectives that Perez was holding on to the the officers arms to keep him from handcuffing Perez